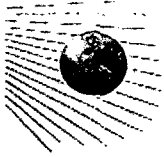


Libby  
press  
SF-MT



Wendy  
Chipp/OCP/R8/USEPA/US  
09/26/2008 08:10 AM

To  
cc  
bcc Carol Campbell/R8/USEPA/US  
Subject FYI - Flathead Beacon article: EPA scuttled Libby emergency declaration



**Libby Asbestos**

## **EPA Scuttled Libby Emergency Declaration**

By AP News, 9-24-08 WASHINGTON – Documents show officials with the Environmental Protection Agency prepared in April 2002 to declare a public health emergency over asbestos contamination in Libby, but changed their minds around the same time they met with the White House.

The documents and e-mails were obtained from the EPA and released Wednesday by U.S. Sen. Max Baucus of Montana, who is holding a hearing Thursday to examine them. The documents show agency officials were prepared to make the declaration, which would have led to more extensive cleanup and health protections.

But the agency eventually decided against it, instead ordering an easier, cheaper and less extensive way to remove asbestos from the attics of residents.

Libby is home to the now-closed W.R. Grace & Co. vermiculite mine. The EPA, which has declared the area a Superfund site, first arrived in Libby in 1999, when news reports linked asbestos contamination from the mine to deaths and illnesses.

The vermiculite, used in a variety of household products, contained tremolite asbestos, which was not only used in home insulation but released into the air and carried home on miners' clothing. Lawyers for Libby residents say asbestos has sickened about 2,000 people in the town and killed up to 225.

In early 2002, EPA readied a public health emergency declaration, a designation allowed under Superfund law, according to several e-mails between officials at the time. It would have forced the agency to clean residents' entire homes and provided extensive health care for those who were infected.

"I believe CTW wants this PHE announced within 10 days," wrote EPA spokeswoman Bonnie Piper in an April 9, 2002, e-mail, referring to then-EPA administrator, former New Jersey Gov. Christine Todd Whitman. "note: Earth Day is the following week"

Seven days later, a meeting with the White House Office of Management and Budget appears on the schedule of Marianne Lamont Horinko, then the assistant administrator for the EPA's Office of Solid Waste and Emergency Response.

A few weeks after that, the EPA released an "action memo" expanding the agency's current authority to

allow the cleanup insulation from Libby attics. But a public health emergency, which would have forced a much wider cleanup, was not declared.

The EPA did not return calls and e-mails seeking comment Wednesday.

One of the 14,000 documents released by the EPA to Baucus is a transcript of an interview with Paul Peronard, former on-scene coordinator for the Libby asbestos site and one of the agency staff involved in drafting the original public health emergency declaration. In the interview, Peronard said it was his recollection that the Office of Management and Budget was responsible for canceling the declaration.

Horinko, the assistant administrator who met with the White House, denied the connection when contacted Wednesday.

"I don't have any recollection of OMB telling us not to do that," she said. "It was a public policy decision on Gov. Whitman's part."

Whitman did not return calls seeking comment.

Horinko said the agency was concerned about litigation from W.R. Grace if they declared the emergency.

"We wanted to do the thing that would get us in and out of those homes as quickly as possible," she said.

The White House was involved in drafting the eventual action memo, sending multiple e-mails to agency staff after the April 16 meeting. Several of the released e-mails detail the back and forth between OMB officials and EPA officials, haggling over fine points in the memo's final language.

In one e-mail, an OMB official asks officials to make language more vague — striking through the word "inherently" in reference to the potential dangers of the asbestos and replacing it with the word "potentially." The White House officials also stressed the EPA should declare Libby's situation "unique" so it would not apply to other cleanups around the country.

As part of the final action memo, EPA officials circumvented the Superfund law, which declares "products" that are part of a structure cannot be removed unless a public health emergency is declared. That meant EPA could not remove asbestos-filled insulation from Libby homes without the public health emergency declaration.

To get around that part of the law and still do a partial cleanup of Libby houses, EPA officials devised a somewhat implausible explanation for the asbestos removal — that many residents had gotten their insulation from waste left around town by Grace, so therefore it was not a "product" and could be removed.

Horinko expressed concern about that phrasing in the 2002 e-mails, but later told Senate committee staff that she trusted agency lawyers who approved of the explanation.

In a May 10, 2002, e-mail, John Spinello, assistant counsel to Whitman, wrote Jessica Furey, another agency counsel, that he believed he had "worked out Marianne's (Horinko's) concerns."

Spinello explained the report would simply say that vermiculite was given out at the mine and that the law's limitation on removing "products" does not apply to this instance.

"Without explicitly connecting the dots, we express an inference," he said. "I think, among the several less-than-perfect ways to write this, it is as good as any."

The St. Louis Post-Dispatch first reported in 2002 that the public health emergency declaration was not issued because of White House intervention. [End of article]

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